

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

Minnesotans for Responsible
Government,

ORDER OF DISMISSAL

Complainant,
vs.

Ramsey County, AFSCME, Mike
Hatch, Amy Klobuchar and Lori
Swanson,

Respondents.

On November 7, 2006, Minnesotans for Responsible Government filed a Complaint with the Office of Administrative Hearings alleging that Ramsey County, AFSCME, Mike Hatch, Amy Klobuchar and Lori Swanson violated Minn. Stat. § 211B.09. The Chief Administrative Law Judge assigned this matter to the undersigned Administrative Law Judge on November 7, 2006, pursuant to Minn. Stat. § 211B.33. A copy of the Complaint and attachments were sent by United States mail to the Respondent on November 7, 2006.

After reviewing the Complaint and attachments, the Administrative Law Judge finds that the Complaint does not state prima facie violations of Minn. Stat. § 211B.09. Therefore, the Complaint is dismissed.

Based upon the Complaint and the supporting filings and for the reasons set out in the attached Memorandum,

IT IS ORDERED:

That the Complaint filed by Minnesotans for Responsible Government against Ramsey County, AFSCME, Mike Hatch, Amy Klobuchar and Lori Swanson is DISMISSED.

Dated: November 9, 2006

/s/ Richard C. Luis

RICHARD C. LUIS
Administrative Law Judge

NOTICE

Under Minn. Stat. § 211B.36, subd. 5, this order is the final decision in this matter and a party aggrieved by this decision may seek judicial review as provided in Minn. Stat. § § 14.63 to 14.69.

MEMORANDUM

The Complaint alleges that AFSCME members and Ramsey County personnel violated Minn. Stat. § 211B.09 by handing out campaign literature at or inside the Ramsey County government building at 160 E. Kellogg Boulevard in St. Paul. The Complaint maintains that these persons campaigned “on county property during county work hours” and urged other county employees to vote for Mike Hatch, Amy Klobuchar, and Lori Swanson. The Complainant has attached two campaign flyers that were prepared and paid for by AFSCME, which the Complainant alleges were distributed to Ramsey County employees at the Ramsey County building on or about November 6 and 7, 2006. According to the Complaint, the campaigning activity was coordinated by AFSCME and done with the “knowledge and cooperation” of Ramsey County supervising personnel. In addition, the Complaint alleges that candidates, Mike Hatch, Amy Klobuchar, and Lori Swanson, “were aware” of the campaigning by public employees on government property but did nothing to prevent it from happening.

Minn. Stat. § 211B.09 provides as follows:

An employee or official of the state or of a political subdivision may not use official authority or influence to compel a person to apply for membership in or become a member of a political organization, to pay or promise to pay a political contribution, or to take part in political activity. A political subdivision may not impose or enforce additional limitations on the political activities of its employees.

In order to allege a prima facie violation of Minn. Stat. § 211B.09, the Complainant must put forward facts that would support finding the Respondents used their authority or influence to “compel” persons to take part in a political activity. The Merriam Webster Dictionary defines “compel” to mean “to drive or urge forcefully or irresistibly;” or “to cause to do or occur by overwhelming pressure.”¹ The Complainant has alleged no facts to support finding that AFSCME members and Ramsey County employees used forceful or overwhelming pressure on fellow county workers to get them to take part in a political activity. Instead, the Complaint states only that AFSCME members and County employees handed out campaign flyers in support of Mike Hatch, Amy Klobuchar and Lori Swanson and urged other state and county employees to vote for these candidates. This allegation alone is insufficient to support a prima facie violation of Minn. Stat. § 211B.09 absent some evidence that the

¹ Merriam Webster Online Dictionary.

Respondents compelled persons to take part in political activity. Even if it is assumed that the phrase “to take part in a political activity” includes the act of voting, the Complainant has failed to put forward any facts that would support finding the Respondents used their authority or influence as public employees to *compel* people to vote for Mike Hatch, Amy Klobuchar, or Lori Swanson.

Moreover, although the Complainant has named Mike Hatch, Amy Klobuchar, and Lori Swanson as Respondents, the Complaint does not allege that these candidates/public officials used their authority or influence to compel persons to become members of a political organization, to pay a political contribution or to take part in a political activity. Instead, the Complaint alleges only that these candidates were aware that AFSCME members and Ramsey County employees were campaigning on county property but “did nothing to prevent its occurrence.” This allegation is insufficient to support a prima facie violation of Minn. Stat. § 211B.09. Nothing in Minn. Stat. § 211B.09 requires persons to prevent others from violating the provision. Because the Complainant has not alleged that Mike Hatch, Amy Klobuchar, or Lori Swanson compelled persons to apply for or become members of a political organization, to pay or promise to pay a political contribution, or to take part in political activity, the Complaint against them is dismissed.

The Administrative Law Judge concludes that the Complaint fails to allege prima facie violations of Minn. Stat. § 211B.09 by the Respondents. Therefore, the Complaint is dismissed in its entirety.

R.C.L.